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JUL 12 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Michael N. Milby, Clerk of Court

INTERNATIONAL BROTHERHOOD
OF ELECTRICAL WORKERS
LOCAL UNION NO. 66

VS.

CENTERPOINT ENERGY HOUSTON
ELECTRIC, LLC (RELIANT ENERGY
HL&P)

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H-05 2411⁷

CIVIL ACTION NO. _____

COMPLAINT TO VACATE ARBITRATION AWARD

Plaintiff, INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION NO. 66, complains against CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC (RELIANT ENERGY HL&P), and respectfully requests that the Court vacate portions of an arbitration award that exceeded the authority conferred upon the arbitrator, as follows:

Nature of Action

1. Plaintiff brings this action pursuant to Section 301 of the Labor Management Relations Act of 1947 ("LMRA"), 20 U.S.C. § 185, to vacate, set aside, and declare null and void a labor arbitration award rendered by Arbitrator M. J. Fox, Jr., as noted below.

Parties

2. INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL UNION NO. 66 ("Local 66" or the "Union") is an unincorporated association and a labor organization within the meaning of the LMRA, 29 U.S.C. §§ 142(3), 152(5).
3. CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC (RELIANT ENERGY HL&P) ("Centerpoint" or the "Company") is an employer within the meaning of the LMRA,

29 U.S.C. §§ 142(3), 152(2), incorporated under the laws of the state of Texas. The Company owns, operates, and maintains more than 40,000 miles of transmission and distribution lines in order to deliver electric power from generating facilities to consumers in the greater Houston area.

4. **CENTERPOINT ENERGY HOUSTON ELECTRIC, LLC (RELIANT ENERGY HL&P)** may be served with process through its registered agent, HUGH RICE KELLY, at 1111 Louisiana , Houston, TX 77002
5. The Company and Union entered into a collective bargaining agreement (“Agreement” or “CBA”) that became effective on or about May 26, 2000 and expired on or about May 25, 2003. It was under the provisions of this particular CBA the instant grievance arose.

Jurisdiction and Venue

6. This case arises under 29 U.S.C. §185. Accordingly, this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1337 and 29 U.S.C. §185(c)(2).
7. Venue is proper in the Southern District of Texas pursuant to 28 U.S.C. § 1391(b) and 29 U.S.C. § 185(a) and (c).

Background

8. The CBA contains written grievance and arbitration procedures.
9. The CBA’s arbitration procedure provides, in part, that the Union may request arbitration “in the event the Union is dissatisfied with the decision of the President or his representative on the grievance, it may invoke arbitration of said grievance by giving the Company written notice, within not more than ten (10) days from the date of the aforesaid decision, of a desire

to arbitrate the grievance and request the Federal Mediation and Conciliation Service to submit a list of five (5) persons, competent to serve as neutral arbitrators.” (CBA, Art. 16, Sec. 4, at p. 27, attached as Exhibit #1 to this Complaint).

10. The CBA further provides that the decision of the arbitrator “will be final and binding upon both parties.” (*id.*, Art. 16, Sec. 43, at p. 27).
11. However, the CBA states that “the sole function of the arbitrator shall be to determine whether Company or Union is correct with reference to the proper application and interpretation of this Agreement and the arbitrator shall not have any authority to change, amend, modify, supplement or otherwise alter in any respect whatsoever this Agreement, or any part thereof.”(*id.*, Art. 16, Sec. 4, at p. 27).
12. The Union under the CBA filed a grievance challenging the Company’s decision to terminate the employment of Grievant, Roderick Peavy, on January 27, 2003. The Union also questioned the Company’s decision to reduce Mr. Peavy’s pay to that of a transitional helper rather than that of Journeyman Lineman. Additionally, the Union challenged the Company’s decision to deny Mr. Peavy longevity pay which provides that in the event a permanent Head Journeyman is demoted and replaced at the Company’s discretion, he will retain the rate he was receiving as Head Journeyman for a period of time equal to one (1) month for each full year of his service as a Head Journeyman up to a maximum of twelve (12) months of rate retention.”
13. Article 6 Section 2 of the CBA requires the Company to employ those who complete the Apprenticeship Program as Journeyman Linemen. The CBA specifically states that “upon

successful completion of the program, Company agrees that the Apprentice shall be retained as a Journeyman, and receive the salary therefor. Further, as stated above, Article 15 Section 6 of the Collective Bargaining Agreement states that “in the event a permanent Head Journeyman is demoted and replaced at the Company’s discretion, he will retain the rate he was receiving as Head Journeyman for a period of time equal to one (1) month for each full year of his service as a Head Journeyman up to a maximum of twelve (12) months of rate retention.”

14. The grievance was heard before an Arbitrator during a hearing conducted on February 14, 2004, followed by the parties’ submission of post-hearing briefs.

The Arbitrator’s Ruling

15. On November 13, 2004, the Arbitrator issued a written award (the “Award”) which denied the Grievance.
16. Although Mr. Peavy had completed the Apprenticeship Program and had been demoted from his Head Lineman position, the Arbitrator Award denied Grievant both his contractually guaranteed longevity pay as well as the retention of his journeyman pay as guaranteed by Article 6, Section 2.
17. In doing so, the Arbitrator Exceeded His Authority because his decision is contrary to the express language of the Collective Bargaining Agreement.
18. As such, said ruling is inconsistent with the arbitrators duty in this matter as well as the Company’s legal and contractual obligations.
19. WHEREFORE, Plaintiff requests the Court enter a judgment vacating, setting aside, and

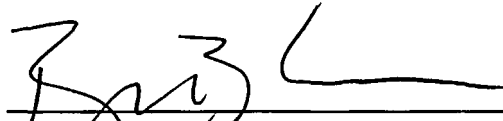
declaring null and void those portions of the arbitrator's decision which denied Grievant both his contractually guaranteed longevity pay as well as the retention of his journeyman pay as guaranteed by Article 6, Section 2, and that the Court grant Plaintiff its attorneys' fees and costs, and award such other and further relief as the Court deems appropriate.

Respectfully submitted,

WILLIAMS



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The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initialing the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

International Brotherhood of Electrical Workers Local Union
No. 66

(b) County of Residence of First Listed Plaintiff Harris
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Byron Buchanan/Jim Hart 713.230.2317
Williams Bailey Law Firm LLP
8441 Gulf Freeway, Suite 600
Houston, TX 77027

DEFENDANTS

CenterPoint Energy Houston Electric, LLC (Reliant Energy HL&P)

County of Residence of First Listed Defendant Harris
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

United States Courts
Southern District of Texas
FILED

JUL 12 2005

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- PTF DEF
- Citizen of This State ☒ 1 ☐ 1 Incorporated or Principal Place of Business In This State ☐ 4 ☒ 4
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

COMPLAINT TO VACATE ARBITRATOR'S DECISION

Brief description of cause:

11

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE 6-12-05 SIGNATURE OF ATTORNEY OF RECORD [Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____